

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.782 of 2018

1. Afshan Rahman, D/o Late Kalimur Rahman, Resident of Mohalla Dr. Wazir Ali Road, P.S. Kotwali, Town and District Gaya at present resident of L-302 Jai Puria Socieity Indra Puram, Ghaziabad (U.P.)

2. Haider Imam

3. Anwar Imam

Both 2 and 3 are the sons of Ashique Imam, Resident of Village Belhari, P.O. Belhari, P.S. Belaganj, District Gaya at present Fashion Shoe, Near Agrawal Store, G.B. Road, Gaya, P.S. Kotwali, District Gaya.

... .. Defendants-Petitioners

Versus

1. Md. Ehtesham, Son of Late Abdul Lateef, Resident of Mohalla Aliganj, P.S. Chandauti, Town and District Gaya, at present residing at Mohalla Dr. Wazir Ali Road, P.S. Kotwali, Town and District Gaya.

... .. Plaintiff-Respondent 1st Set

2. Naila Sumbule, Wife of Syed Mohammad Sharique Alam, Resident of Mohalla Chuna Gali, Rai Baijnath Singh Lane, P.S. Kotwali, Town and District Gaya

... ..Defendant-Respondent 2nd Set

Appearance :

For the Appellant/s : Mr. Radha Mohan Pandey
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 27-09-2018 Mr. Radha Mohan Pandey, the learned counsel
appearing on behalf of the petitioners.

2. The petitioners have filed this civil miscellaneous petition under supervisory jurisdiction of this Court under Article 227 of the Constitution of India against the order dated 03.02.2018, passed by the learned Sub Judge-VIII, Gaya in Title Suit No. 80 of 2017 by which the learned Sub Judge-VIII allowed the amendment petition of the plaintiff-respondent 1st Set.



3. The learned counsel for the petitioners filed the suit on 13.10.2017. Some of the defendants filed W.S. on 27.11.2017 and some of the defendants filed W.S. on 23.01.2018. The plaintiff filed amendment petition under Order VI Rule 17 of the Code of Civil Procedure on 31.01.2018 and the plaintiff by filing such amendment petition desired to bring about 49 amendments in the plaint and also add new reliefs with Schedule of the plaint mentioning the land but the learned Subordinate Judge-VIII allowed the amendment of the plaintiff without taking care of the fact that the amendment brought in by the plaintiff would change the nature of the entire suit. It is further submitted that the object of amendment is of course that the same should be allowed bringing all the facts necessary for determination of the disputes between the parties but that does not mean that the entire suit allowed to be amended along with the prayer and the Schedule of the plaint. One and only one question arises for consideration is whether before settlement of the issue, the amendment petition brought by the plaintiff making exhaustive amendment of the plaint can be allowed? Order VI Rule 17 of the Code of Civil Procedure vests power in the court stating that the court may at any stage of the proceeding allow either party to alter or amend his plaint in such



manner and on such term as may be just and all such amendments shall be made which are necessary for the purpose of determining the real question in controversy between the parties. The plain reading of the provision as contained in Order VI Rule 17 makes it crystal clear that the court shall allow either party to amend his pleading in such manner and all such amendments shall be allowed to be made which are necessary for determination of the disputes/the real question in controversy between the parties. The suit is at the very initial stage. Even the issues have not been settled, therefore, I find that the learned Sub-Judge-VIII, Gaya has rightly allowed the amendment proposed by the plaintiff in order to resolve all the disputes existing between the parties. Thus, I do not find any merit in this civil miscellaneous petition. Accordingly, the same is dismissed. However, it is needless to state that the defendants shall have liberty to file additional W.S.

(Prabhat Kumar Jha, J)

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